



Paper No. 12

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OFFICE OF PETITIONS

In re Application of	:
Thorman et al.	:
Application No. 09/597,069	: DECISION ON PETITION
Filed: June 20, 2000	: AND WITHDRAWAL OF
Attorney Docket No. 15301-US	: THE HOLDING OF ABANDONMENT

This is in response to the petition under 37 CFR 1.181, submitted by facsimile transmission on June 26, 2002, to withdraw the holding of abandonment mailed September 14, 2001. The application file was recently forwarded to the Office of Petitions for a decision on the present petition. The Office sincerely apologizes for any inconvenience.

In the present petition, applicants asserted that the Notice of Abandonment was issued in error. Applicants requested that the holding of abandonment be withdrawn. The following is a brief discussion of the pertinent facts.

On September 19, 2000, applicants filed a petition under 37 CFR 1.10(c) to accord a filing date of June 19, 2000, instead of the instant filing date of June 20, 2000. The petition was dismissed by the decision of November 18, 2000. On December 11, 2000, applicants filed a request for reconsideration of the decision dismissing the original petition. The request for reconsideration was dismissed on February 5, 2001. However, applicants were informed that they were **entitled, but not required**, to file a request for reconsideration of the decision of February 5, 2001, within **TWO (2) MONTHS** of the date of that decision.

On September 14, 2001, a Notice of Abandonment was mailed for failing to timely reply to the decision of February 5, 2001.

On June 26, 2002, applicants filed the present petition. Applicants asserted that the decision of February 5, 2001, provided "an invitation to submit a response *rather than a requirement for a response*" if applicants accepted its holding. More specifically, applicants stated that pursuant to the language of the decision on petition, no further remedial attempts to obtain an earlier filing date were required for continued processing and prosecution of the above-identified application.

Upon a thorough review of the circumstances and the decision on petition of February 5, 2001, applicants are correct that they were not required to reply to the decision and no further action was necessary on applicants' part for processing and examination of the application. Applicants were not compelled to file a request for reconsideration if applicants accepted the decision on petition.

Accordingly, the petition under 37 CFR 1.181 to withdraw the holding of abandonment is **granted** and the application is restored to pending status. The Office apologizes for the error.

The application file will be forwarded to the Office of Initial Patent Examination for further processing. Additionally, the Notice of Abandonment shall be vacated and the application shall be examined in due course.

Any inquiries regarding this decision should be addressed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
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Office of Petitions